

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

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**Andrew Hanson,**  
Appellant,

**v.**

**Polk County Board of Review,**  
Appellee.

**ORDER**

**Docket No. 14-77-0351**  
**Parcel No. 312/00701-999-509**

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On April 24, 2015, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) (2013) and Iowa Administrative Code rules 701-71.21(1) et al. Appellant Andrew Hanson was self-represented. Assistant County Attorney Ralph E. Marasco, Jr. represented the Board of Review. The Appeal Board now, having examined the entire record, heard the testimony, and being fully advised, finds:

***Findings of Fact***

Andrew Hanson, owner of property located at 13108 Hammontree Drive, Urbandale, Iowa, protested his assessment to the Polk County Board of Review. The real estate was classified residential on the January 1, 2014, assessment and valued at \$335,300, representing \$44,300 in land value and \$291,000 in improvement value. This was a change from the 2013 assessment making all appeal grounds available for protest.

According to the record, the property is a one-story, frame dwelling with 1991 square feet of living area, a full, walkout basement with 1700 square feet of living-quarters finish, a 599 square-foot attached garage, a 220 square-foot open porch, a 132 square-foot deck, and a 464 square-foot patio built in 2008. The property is listed in normal condition with high quality construction grade (2+00). The site is 0.187-acres.

Hanson protested the assessment to the Board of Review on the ground that the property was assessed for more than authorized by law under Iowa Code section 441.37(1)(a)(1)(b). The Board of Review granted the protest, in part, based on an error in square footage, and reduced the assessment to \$322,700, representing \$44,300 in land value and \$288,400 in dwelling value. Hanson also challenged the assessment on the ground that there had been a downward change in value of the property under sections 441.35(2) and 441.37(1)(a)(2). In a re-assessment year, a challenge based on downward change in value is akin to a market value claim. *See Dedham Co-op. Ass'n v. Carroll County Bd. of Review*, 2006 WL 1750300 (Iowa Ct. App. 2006). Accordingly, we do not consider downward change as a separate claim and consider only the claim of over-assessment.

Hanson then appealed to this Board requesting an assessment of \$279,000.

Hanson testified he purchased the property in February 2014 for \$270,000. The record indicates it was purchased from a family member, which is not considered a normal, arm's-length transaction. He reported the property was previously purchased by his father-in-law for \$270,000 in November 2013 as a short sale, also not considered a normal sale. Hanson submitted the listing history of the property showing it was initially listed in January 2013 for \$355,000 and the listing price was reduced periodically until the time of the November purchase.

Hanson submitted an appraisal completed by Bradley A. Schultz of Mid-Iowa Professional Appraisals, Inc. in Johnston, Iowa for mortgage financing with an effective date of February 12, 2014. Shultz completed the sales comparison and cost approaches to value the subject property. He developed the cost approach using Marshall & Swift Cost Software Program and concluded a value of \$280,601 by that method.

In his sales approach, Hanson used three comparable sale properties and one active listing and concluded a value of \$279,000. All the properties were located in the same or adjoining Urbandale neighborhoods. All are ranch style dwellings, similar in age and condition to the subject property. The

sale prices ranged from \$261,000 to \$325,000. Schultz adjusted the sales for site, construction quality, living area, room count, basement size and finish, and other amenities. Adjusted sale prices ranged from \$279,000 to \$293,985, or \$116.25 to \$166.67 per-square-foot. By comparison, Hanson's purchase price of \$270,000 represented a value of \$135.61 per-square-foot, which is within the range of the adjusted sales prices of the comparable properties per-square-foot. The subject property is assessed at \$168.40 per-square-foot, at the upper end of the range of the adjusted sales prices per-square-foot.

We note that Schultz used two real-estate owned (REO) sales, which are lender owned and frequently follow a foreclosure, sheriff's sale or other distressed sale condition. He did not make any adjustment for this sale condition in his sales approach. Without adjustment to account for the sales condition, we give them no consideration. The appraisal includes only one closed, non-REO sale at 12310 Ridgmont Drive.

The record also includes a spreadsheet of five comparable sales properties submitted by the Polk County Assessor, including the sale at 12310 Ridgmont Drive considered by Schultz. The adjusted sale price per-square-foot and the subject's indicated values were calculated based on main floor square footage and exclude basement finish. This analysis relies on normal sales and we find it the best evidence in the record indicating the subject property's fair market value. The following chart summarizes the sales data for these properties.

Location	Year Built	Main Floor SF	Sale Date	Sale Price	Adjusted Sale Price	Adjusted Sale Price PSF
Subject	2008	1991	N/A	N/A	N/A	AV/\$167.10
4106 140th	2012	1777	Oct-13	\$ 318,000	\$ 345,159	\$194.24
4122 140th	2012	1838	Feb-13	\$ 289,900	\$ 325,801	\$ 177.26
4115 140th	2007	1709	Apr-13	\$ 325,000	\$ 381,976	\$223.51
4110 141st	2007	1821	May-13	\$ 357,000	\$ 418,156	\$229.63
12310 Ridgmont	2002	1674	Jul-13	\$ 261,000	\$ 339,750	\$202.96
Indicated Subject Value					\$ 357,540	\$179.58

Jim Willett, residential deputy assessor/director with the Assessor's office testified on behalf of the Board of Review. He confirmed the initial purchase by Hanson's father-in-law was an REO short sale, which is not considered a normal arm's length transaction indicative of fair market value. Subsequently, Hanson's purchase from this family member also suggests the second sale price may not represent the property's fair market value according to Willett. He was also critical of the appraisal for relying on REO sales and setting an opinion of value on the low side of the comparable sale range.

### ***Conclusion of Law***

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If

sales are not available to determine market value then “other factors,” such as income and/or cost, may be considered. § 441.21(2). This section specifically mandates:

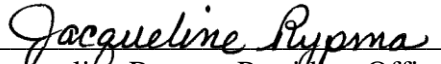
In arriving at market value, sale prices of property in abnormal transactions not reflecting market value shall not be taken into account, or shall be adjusted to eliminate the effect of factors which distort market value, including but not limited to sales to immediate family of the seller, foreclosure or other forced sales, contract sales, discounted purchase transactions or purchase of adjoining land or other land to be operated as a unit. § 441.21(1)(b).

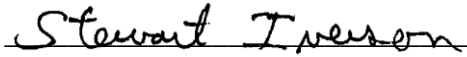
In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Here, it was Hanson’s burden to show the subject property was over-assessed by establishing its fair market value as of January 1, 2014. Hanson’s evidence of the property’s value included a family member’s REO sale price and his subsequent purchase price from that family member, neither are considered a reliable indication of value. Hanson also submitted an appraisal, which included two REO sales that were not adjusted for this condition, which made the appraiser’s opinion of value unreliable. The remaining normal, arm’s length sales in the record indicate that Hanson’s assessment is not excessive and is reflective of the property’s fair market value. Therefore, Hanson did not prove the subject property’s fair market value by a preponderance of evidence to support his claim of over-assessment.

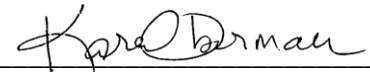
THE APPEAL BOARD ORDERS the 2014 assessment of the property located at 13108

Hammontree Drive, Urbandale, Iowa, is affirmed.

Dated this 12th day of May, 2015.

  
Jacqueline Rypma, Presiding Officer

  
Stewart Iverson, Board Chair

  
Karen Oberman, Board Member

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